



## ENVIRONMENTAL PROTECTION AGENCY

**EPA-HQ-OPP-2012-0397; FRL-9351-2**

### ***Bacillus mycoides isolate J*; Receipt of Application for Emergency Exemption for Use on Potato in Montana, Solicitation of Public Comment**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA has received a specific exemption request from the Montana Department of Agriculture to use the pesticide *Bacillus mycoides isolate J* to treat up to 2,675 acres of potato to control Potato Virus Y (PVY). The applicant proposes the use of a new chemical which has not been registered by the EPA. EPA is soliciting public comment before making the decision whether or not to grant the exemption.

**DATES:** Comments must be received on or before *[insert date 5 days after date of publication in the Federal Register]*.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2012-0397 by one of the following methods:

*Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), Mail Code: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

*Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.htm>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** Debra Rate, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 306–0309; fax number: (703) 605–0781; email address: [rate.debra@epa.gov](mailto:rate.debra@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this Action Apply to Me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

*B. What Should I Consider as I Prepare My Comments for EPA?*

1. *Submitting CBI.* Do not submit this information to EPA through [www.regulations.gov](http://www.regulations.gov) or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:
- i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).
  - ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
  - iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
  - iv. Describe any assumptions and provide any technical information and/or data that you used.
  - v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
  - vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide discussed in this document, compared to the general population.

## **II. What Action is the Agency Taking?**

Under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), at the discretion of the Administrator, a Federal or State agency may be exempted from any provision of FIFRA if the Administrator determines that emergency conditions exist which require the exemption. Montana Department of Agriculture has requested the Administrator to issue a specific exemption for the use of *Bacillus mycoides isolate J* on potato to control PVY. Information in accordance with 40 CFR part 166 was submitted as part of this request.

As part of this request, the applicant asserts that *Bacillus mycoides isolate J* is needed to treat first and second generation seed potato to control PVY transmitted by aphids. The mode of action of *Bacillus mycoides isolate J* is to induce the plants

systemic acquired resistance (SAR) to disease. In certified seed potato production, the final evaluation on virus levels is determined by conducting a post-harvest test. In Montana, the level of virus must be below 0.5% PVY for planting back for re-certification. The Montana potato industry's ability to plant sufficient seed acreage in 2012 will be compromised, without the use of *Bacillus mycoides isolate J* to control PVY. Expected losses without the use of *Bacillus mycoides isolate J* will approach 30% of the first generation seed potato and 40% of the second generation seed potato.

The Applicant proposes to make no more than five applications per year at a rate of 0.3 ounces of active ingredient per acre per application to a maximum of 2,675 acres of potato during the 2012 growing season in the state of Montana. A total of 4,012.5 ounces of *Bacillus mycoides isolate J* may be used.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 of FIFRA require publication of a notice of receipt of an application for a specific exemption proposing use of a new chemical (i.e., an active ingredient) which has not been registered by EPA. The notice provides an opportunity for public comment on the application.

The Agency, will review and consider all comments received during the comment period in determining whether to issue the specific exemption requested by the Montana Department of Agriculture.

**List of Subjects**

Environmental protection, Pesticides and pests.

Dated: May 22, 2012

Lois Rossi,

*Director, Registration Division, Office of Pesticide Programs.*

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